




Kazakhstan

**EU COUNTRY ROADMAP FOR
ENGAGEMENT WITH CIVIL SOCIETY**

2018 - 2020

Approved by:

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1 STATE OF CIVIL SOCIETY

1.1 ENABLING ENVIRONMENT

While the Civil Code of Kazakhstan does not contain a definition of "Non-Governmental Organisations" (NGOs) or Civil Society Organisations (CSOs) it uses the term "Non-Commercial Organisations" (NCOs) about organisations that do not aim to generate a profit or distribute its income among its owners, participants or members. Unregistered public associations are prohibited. Thus NCOs are required to register at the Ministry of Justice and applicants are required to pay a registration fee, which is determined by the Tax Code. According to recent figures (2018) provided by the Government, there were more than 20,000 independent NCOs registered to be engaged in a wide range of activities, from mutual benefit organizations such as homeowners' associations, to organizations promoting human rights, protecting the interests of vulnerable groups, engaging in the delivery of social services, and supporting environmental causes. However, only some 2,000 of these are deemed to be active. NCOs are estimated to provide social services to more than 5 million people¹ (out of a total population of some 18 million).

As of today, the basic legal framework that currently regulates the activities of Civil Society Organisations are the Constitution of the Republic of Kazakhstan, the Civil Code, the Law on Public Associations, the Law on State Registration of Legal Entities and Record-Registration of Branches and Representative Offices, the Law on Non-Commercial Organisations and the Law on State Social Mandate, Grants and Bonuses for Non-Government Organisations. The Constitution prohibits "unlawful interference" in the activities of state agencies by public associations (but without clearly defining the meaning of this wording). The Civil Code (CC) recognizes a large number of organizational forms of NCOs: institutions, public associations, foundations, consumer cooperatives, religious associations, associations of individual entrepreneurs, and associations of legal entities. NCOs can also be created in other forms pursuant to separate laws, such as notary chambers, bar associations, chambers of commerce and industry, professional auditing organizations, cooperatives of apartment owners, chambers of appraisers etc. Foreign citizens and stateless persons cannot form public associations/NCOs.

The Concept of the Civil Society Development for 2006-2011 provided a comprehensive framework for the development of CSOs and promotes the development of partnership between CSOs, the state institutions and the business sector on an equal footing. A number of governmental agencies at the national, regional and local levels have therefore become more open to consulting with CSOs and involving them in working groups and public councils. The Concept expired at the end of 2011 and a new strategic document for CSO-Government cooperation was adopted in December 2015; it is called the National Action Plan on Development of Interaction between the Government and CSOs for 2016-2020. According to this document, the government focuses on development of public councils as well as mechanisms of cooperation with civil society. Unfortunately, however, the National Action Plan for 2016-2020 has also raised concern among CSOs, as it calls for further review of legislation that regulates the activities and reporting of foreign CSOs operating in Kazakhstan. In June 2018, the Civil Alliance of Kazakhstan initiated the development of a new Concept of Civil Society Development, which will be drafted on basis of proposals from local CSOs collected during a series of public discussions.

1.2 PARTICIPATION AND ROLES

The State authorities increasingly consider CSOs as providers of valuable expertise and engage with them accordingly in providing social services and socially vulnerable parts of the population. Over the few last years, the authorities have paid serious attention to promoting co-operation with the non-governmental sector, with focus on the search for new ways and mechanisms to create an effective model of social

¹ <https://crjm.org/wp-content/uploads/2015/07/2015-06-CSO-susten-2014.pdf>

partnership.² This is reflected in the level of government funding for social services through NGOs, which has grown in recent years, reaching \$38 million in 2017. New amendments to the social contracting law and implementing regulations went into effect in 2012, 2015 and 2018 that improve the transparency of the process and the selection criteria for vendors. The amendments also open the door to longer-term financing programs and require all government agencies awarding social contracts to establish councils for cooperation with CSOs. Since 2001, the government has hosted eight high-profile biannual civic forums. These forums serve as a dialogue platform, where CSOs from throughout Kazakhstan and representatives of national and local governmental bodies discuss current issues and develop specific recommendations for civil society development and CSO-Government cooperation.

There is also a general recognition of CSOs as important actors in promoting democratic governance and reforming the government, especially judiciary institutions. The government and in particular the Ministry of Foreign Affairs established a Consultative Advisory Body & Human Dimension Dialogue Platform, that includes practically all government institutions involved in overseeing the legislation and implementation in the field of human rights, as well as representatives of civil society organizations active in the field. The Ministry of Justice also has a Working group that serves as a vehicle to get the feedback of CSOs on relevant pieces of legislation. Another institution that practice consultation with the CSOs is the Office of the Ombudsman, which is responsible for the implementation of the Law on the National Preventive Mechanism against Torture.

On July 26, 2016, Kazakhstan adopted a so-called Law on Payments that introduced new reporting requirements in the Tax Code for organizations (including CSOs) and individuals regarding the receipt and expenditure of foreign funds and/or assets. An organization or an individual that falls within the scope of the above-mentioned provision must provide a notification to the tax authorities, as well as information on the receipt and expenditure of funds and (or) other assets received from foreign sources to the tax authorities. In addition, they must label all publications produced with support from foreign funds as funded from foreign sources. Kazakh legislation provides for severe administrative penalties for non-compliance with these new requirements.

On 19 March 2018, the Ministry of Finance published two orders establishing new rules to submit notifications about receipt and reports about use of funds from foreign sources to the state income authorities (the Revised Rules). The Revised Rules replace the 2016 rules in implementation of the 2016 Kazakh Law on Payments and increase the administrative burden for offices of foreign NGOs. Amongst other consequences, the removal of the reference to a transaction means that the offices of foreign CSOs are now responsible for submission of notifications to the state income authorities on fund transfers they receive from the head offices. Therefore, if an office of a foreign CSO receives a monthly fund transfer from its head office, it is required to submit this notification upon receipt of payment within ten working days every month.

While many provisions of these laws may not be problematic, experience shows that they are arbitrarily implemented. In fact, this legislative framework allows the authorities to exercise pressure, including a financial one. Several NGOs considered 'government unfriendly', in particular those working in the areas of civil and political rights and rule of law, like many foreign companies, were subject to arbitrary tax inspections and fines.. Some organizations (for example in the LGBTI field) are repeatedly denied their application for NGO status.

Despite these restrictive initiatives, the government continues to increase funding allocations to CSOs in the form of state social contracts and state grants. Starting from 2017, the government

² http://centralasiaonline.com/en_GB/articles/caii/features/main/2013/02/14/feature-01

has issued state awards to CSOs for their contribution to resolving social problems via successful implementation of state social contracts. The Ministry of Social Development, an authorized body for interaction with CSOs in Kazakhstan, currently focuses on optimizing a CSO database, which currently includes 4,624 CSOs. It also seeks further improvements to the legislation on state social contracting and public councils.

1.3 CAPACITY

Access to adequate financial resources to sustain CSO activities beyond the provision of social services remains a key concern in Kazakhstan. A substantial proportion of the government's social contracts are distributed through a relatively small number of NGOs and according to several NGOs, the procedures for state social funding are not transparent. Most NGOs involved in the promotion of political and human rights are dependent on international donor financing.

There is a however growing capacity of the Kazakhstani civil society to operate consistently in the various provinces of the vast country, and even beyond its boundaries.

All in all, Kazakhstan civil society operates within a relatively developed framework of infrastructure and resources, and in most cases has sufficient internal structures of governance, intra-sector communications and networks. However, most projects are short term oriented with a high turn-over of staff.

2 CURRENT EU ENGAGEMENT

2.1 STRUCTURED EU DIALOGUE WITH CIVIL SOCIETY

The EU's dialogue with Kazakhstani CSOs is organized within the framework of the 1995 bilateral Partnership and Cooperation Agreement and in accordance with the 2010 EU- Central Asia Strategy for a New Partnership. A new Enhanced PCA (EPCA) was ratified by the Kazakh Parliament in March 2016 and by the European Parliament in December 2017. While the ratification of the EPCA by a few Member States is still pending (as of December 2018) most of the EPCA provisions, including its Trade and Business chapters provisionally entered into force on 1 May 2016.

According to Article 245 of the EPCA the EU and Kazakhstan shall continue and strengthen their dialogue, in the form of meetings and consultations, and shall cooperate on the role of civil society, with the objectives to (1) strengthen contacts, exchange information and experiences and dialogue between all sectors of Civil Society in the EU and Kazakhstan; (2) ensure involvement of civil society in the relations between the EU and Kazakhstan, in particular in implementing the EPCA, and (3) encourage greater capacity building, independence and transparency in civil society and support its role in the economic, social and political development of the parties.

The Parties are also committing to give support to the respective institutions and non-governmental organisations which implement activities in the area of human rights and to share all relevant information on cooperation programmes, formally and regularly, at least once a year.

2.2 MAINSTREAMING CIVIL SOCIETY

The EU highly appreciates the constructive contributions it has obtained over time from CSOs in various priority sectors of bilateral intervention, namely promotion of regional cooperation and good neighborly relations; poverty reduction and increasing living standards; and good governance and economic reform. Looking ahead, while the discontinuation of bilateral cooperation from 2014 onwards has reduced possibilities for an active involvement of CSOs, regional and global EU instruments have been and will continue to be mobilized also in support of CSOs

2.3 COORDINATION

EU DEL and EU MSs maintain a regular coordination on civil society issues. As mentioned above, the coordination mechanism takes place around regular monthly meetings of EU MS Political/ Human Rights Officers, organized and chaired by the EU Delegation. On such occasions important CSOs share their views in their respective field of expertise, such as Kazakhstan's International Bureau for Human Rights (KIBHR) – Human Rights CSOs umbrella organisation, AROK – on freedom of religion and belief, Open Society Foundation – on civil society participation in public policy making, Dignity Foundation – on the state of affairs of HR Defenders and individual case, etc.

3 PRIORITIES

PRIORITY 1 - Enhancing CSOs' role in promoting good governance, accountability and independent judiciary

As it is the case in all countries of Central Asia, reinforcing governance, government accountability and an independent judiciary are key to improving development results in Kazakhstan as well. The voice and actions of CSOs as monitors, advocates, partners in national and local policy dialogue and providers of information and expertise can further foster transparency, public knowledge and participation. CSOs can thus play a decisive role in improving the quality and effectiveness of public policies, promoting fair management of public resources and access of all to fair justice. Together with public oversight councils and state institutional bodies such as parliament, local councils and the national audit chamber, CSOs can contribute to ensure that public resources are used effectively and efficiently and budgets are reflective of people's needs and priorities.

Indicators:

- 1) Improved environment and space for CSOs to promote good governance and government accountability and independent justice.
- 2) Enhanced CSO involvement in policy dialogues, governance and accountability at local, regional and national level, including through networks.
- 3) Strengthened capacity of CSOs to participate in and contribute to policy dialogue and accountability processes at local, regional and national level.
- 4) Improved CSOs' structuring and joint action in governance and accountability.
- 5) Improved rating of Kazakhstan on anti-corruption.

PRIORITY 2 - Support the institutionalized dialogue between the state and CSOs

This priority is aimed at supporting the participation of CSOs in a dialogue with the state on human dimension (development of democracy, rule of law, respect for human rights and freedoms) within the framework of the Consultative-Advisory Body “The Dialogue Platform on Human Dimension” under the Ministry of Foreign Affairs of the Republic of Kazakhstan, public councils under a number of state bodies and departments, other dialogue platforms and structures, as well as various working groups, including the ones that function as part of the Parliament activity pertaining to human dimension. This will contribute in a significant measure to the participation of civil society in policy processes relating to human dimension, raising the cultural level and efficiency of the dialogue between the state and society.

Indicators:

- 1) Increased frequency of meetings between CSOs and state representatives to discuss matters of human dimension
- 2) Increased level of institutionalization of the dialogue between civil society and the state in issues pertaining to human dimension
- 3) Increased level of participation of representatives of state bodies and departments in the dialogue with civil society on human dimension
- 4) Increased number of CSOs and independent experts participating in the dialogue with the state on issues pertaining to human dimension
- 5) Increased level and quality of participation of CSOs in policies processes carried out by Parliament as part of discussions of draft legislation on human dimension

PRIORITY 3 - Support CSOs' actions to enhance social development, promote better education for marginalised groups and inclusive growth in full respect of the environment.

Support should be provided to CSO actions to enhance social development by improving the population's access to (and benefits from) social services.

This priority also aims at improving the livelihoods of population groups in need, particularly vulnerable groups and in the regions and rural areas taking care of inclusiveness and in a sustainable manner, Inclusive growth is characterised by people's ability to participate in, and benefit from, wealth and job creation.

Support could be provided to facilitate local development processes with a view to stimulate and promote coordination of various social and economic stakeholders in a rural and geographically remote areas, including Local Authorities (LA) CSOs, the private sector and others stakeholders, to formulate and implement development policies and strategies for inclusive and sustainable development.

Indicators:

- 1) Improved environment and space for CSOs to raise awareness on environmental issues.
- 2) Improved environment which allows CSOs to be active in social sectors.
- 3) Enhanced CSO actions in policy dialogues to promote social development, better education for marginalised groups and inclusive growth in full respect of the environment at local, regional and national level, including through networks.
- 4) Enhanced CSO participation in social sectors (in policy dialogue and monitoring and in implementation as appropriate) and raising awareness on environmental issues at local, regional and national level.
- 5) Strengthened capacity of CSOs to effectively advocate for larger access of population to quality social services (notably for vulnerable groups and population out of mainstream services) and environmental issues.

PRIORITY 4 - Support CSOs' actions to promote the respect for human rights and the rule of law, including through promoting the recommendations of international organizations for the in the field of human dimension

Support should be provided for CSOs' actions to support democracy by, among others, fostering a culture respecting the Rule of Law and Human Rights. Since upholding the Rule of Law and Human Rights is primarily a state responsibility and is linked to the reform of the judiciary, it is particularly important to build synergies and complementarity with actions led by state authorities.

Support should also be provided to the promotion of recommendations of international bodies and organizations in the field of human dimension – development of democracy, rule of law, and respect for human rights and freedoms. The objective is to increase the role and level of participation of civil society in the reforms of legislation, institutional development and improvement of law-enforcement practices relating to Kazakhstan's performance of its international obligations stipulated by international agreements and accords which the country has ratified and which relate to the respect, protection and promotion of human rights and freedoms.

This priority is aimed at strengthening the role of citizens and CSOs in policy processes related to the rule of law and respect for human rights.

Indicators:

- 1) Reduced number of cases of violation of human rights in the country;
- 2) Improvement of HR defenders working environment and protection of their rights;
- 3) Improved ratings of Kazakhstan by International Human Rights Institutions
- 4) Strengthening CSO networking (including CSO in rural areas) on HR issues
- 5) Increased number of implemented recommendations of international bodies and organizations in the field of human dimension
- 6) Increased level and quality of the dialogue between CSOs and state authorities concerning Kazakhstan's performance of its human dimension obligations
- 7) Increased role of CSOs in the implementation of recommendations of international bodies and organizations that are stipulated by international human rights agreements ratified by the Republic of Kazakhstan

4 ACTIONS

The priorities above will be taken into consideration when the EU Delegation determines the priorities for the EIDHR Country-Based Support Schemes for the period 2019-2020. The EU Delegation will also ensure that the priorities are reflected in other EU calls for proposals where CSOs based in Kazakhstan are beneficiaries.

Another opportunity to involve CSOs and promote the priorities identified in the Roadmap will be in the design and implementation of specific activities to be undertaken in connection with EU funded regional activities, such as WECOOP³, CAEWDP⁴, Nexus, Central Asia Invest and the EU-Central Asia platforms on the Rule of Law and Education.

Last but not least the EU institutions will strive to ensure that the priorities are duly considered in the policy dialogue with the government, including through the formal meetings held in the context of the PCA/EPCA, such as the Human Rights Dialogue and the sub-committee on Justice and Home Affairs.

To follow-up and monitor the implementation of the Roadmap, the questionnaire included in the Annex will be applied in a survey to be carried out annually in cooperation with an umbrella organisation for Kazakh CSOs. The result of the survey will be summarised by the EU Delegation in its annual External Action Monitoring Report (EAMR).

³ Water, Environment and climate change Cooperation Programme.

⁴ Central Asia Energy-Water Development Programme.

ANNEX

Questionnaire to be used in survey on the implementation of EU Country Roadmap for Engagement with Civil Society

Please respond to what extent you agree with the statements choosing one the six options given in the pull-down menu: "Fully agree", "Agree", "Neither Agree nor Disagree", "Disagree", "Strongly disagree" or "Unable to answer"

Question	Response
PRIORITY 1 - Enhancing CSOs' role in promoting good governance, accountability and independent judiciary	
1. The environment and space for CSOs to promote good governance and government accountability and independent justice is adequate.	Choose an item.
2. CSO involvement in policy dialogues, governance and accountability at local, regional and national level, including through networks is adequate.	Choose an item.
3. The capacity of CSOs to participate in and contribute to policy dialogue and accountability processes at local, regional and national level is strong.	Choose an item.
4. CSOs' structuring and joint action in governance and accountability is strong.	Choose an item.
5. The environment and space for CSOs to promote good governance and government accountability and independent justice is adequate.	Choose an item.
6. This should continue to be a priority	Choose an item.
PRIORITY 2 - Support the institutionalized dialogue between the state and CSOs	
1. Frequency of meetings between CSOs and state representatives to discuss matters of human dimension is high.	Choose an item.
2. The level of institutionalization of the dialogue between civil society and the state in issues pertaining to human dimension is high.	Choose an item.
3. The level of participation of representatives of state bodies and departments in the dialogue with civil society on human dimension is high.	Choose an item.
4. The number of CSOs and independent experts participating in the dialogue with the state on issues pertaining to human dimension is high.	Choose an item.
5. The level and quality of participation of CSOs in policies processes carried out by Parliament as part of discussions of draft legislation on human dimension is high.	Choose an item.
6. This should continue to be a priority.	Choose an item.

PRIORITY 3 - Support CSOs actions to enhance social development, promote better education for marginalised groups and inclusive growth in full respect of the environment.	
1. The environment and space for CSOs to raise awareness on environmental issues is adequate.	Choose an item.
2. The environment which allows CSOs to be active in social sectors is adequate.	Choose an item.
3. CSO actions in policy dialogues to promote social development, better education for marginalised groups and inclusive growth in full respect of the environment at local, regional and national level, including through networks, are strong.	Choose an item.
4. CSO participation in social sectors (in policy dialogue and monitoring and in implementation as appropriate) and raising awareness on environmental issues at local, regional and national level is adequate.	Choose an item.
5. The capacity of CSOs to effectively advocate for larger access of population to quality social services (notably for vulnerable groups and population out of mainstream services) and environmental issues is strong.	Choose an item.
6. This should continue to be a priority.	Choose an item.
PRIORITY 4 - Support CSOs actions to promote the respect for human rights and the rule of law, including through promoting the recommendations of international organizations in the field of the human dimension	
1. The number of cases of violation of human rights in the country is low.	Choose an item.
2. The working environment and protection of their rights of HR defenders is good.	Choose an item.
3. Kazakhstan's ratings by International Human Rights Institutions are adequate	Choose an item.
4. CSO networking (including CSO in rural areas) on HR issues is strong.	Choose an item.
5. The number of implemented recommendations of international bodies and organizations in the field of human dimension is high.	Choose an item.
6. The level and quality of the dialogue between CSOs and state authorities concerning Kazakhstan's performance of its human dimension obligations is adequate.	Choose an item.
7. The role of CSOs in the implementation of recommendations of international bodies and organizations that are stipulated by international human rights agreements ratified by the Republic of Kazakhstan is strong.	Choose an item.
8. This should continue to be a priority.	Choose an item.
COMMENTS – Possible mentioning of other priorities	

Baseline (2018)

- 1.1. CSOs generally perceive the environment for them to promote good governance and government accountability to be weak.
- 1.2. CSOs generally perceive that their involvement in policy dialogue, governance and accountability at local, regional and national level, including through network is inadequate.
- 1.3. CSOs generally perceive their own capacity to participate in and contribute to policy dialogue and accountability processes at local, regional and national level to be inadequate.
- 1.4. CSOs generally perceive their structure and joint action in governance and accountability to be inadequate/weak.
- 1.5. CSOs generally perceive the environment and space for CSOs to promote good governance and government accountability and independent justice to be inadequate.
- 2.1. The frequency of meetings between CSOs and state representatives to discuss matters of human dimension is generally perceived to be low [number for 2018]
- 2.2. The level of institutionalization of the dialogue between civil society and the state in issues pertaining to human dimension is generally perceived as being low.
- 2.3. The level of participation of representatives of state bodies and departments in the dialogue with civil society on human dimension is generally perceived as being low.
- 2.4. The number of CSOs and independent experts participating in the dialogue with the state on issues pertaining to human dimension is generally perceived as being low [number for 2018]
- 2.5. The level and quality of participation of CSOs in policies processes carried out by Parliament as part of discussions of draft legislation on human dimension is generally perceived as being low.
- 3.1. The environment and space for CSOs to raise awareness on environmental issues is generally perceived as being inadequate.
- 3.2. The environment which allows CSOs to be active in social sectors is generally perceived to be inadequate.
- 3.3. CSO actions in policy dialogues to promote social development, better education for marginalised groups and inclusive growth in full respect of the environment at local, regional and national level, including through networks are generally perceived to be inadequate.
- 3.4. CSO participation in social sectors (in policy dialogue and monitoring and in implementation as appropriate) and raising awareness on environmental issues at local, regional and national level is generally perceived to be inadequate.
- 3.5. The capacity of CSOs to effectively advocate for larger access of population to quality social services (notably for vulnerable groups and population out of mainstream services) and environmental issues is generally perceived to be weak.
- 4.1. The number of cases of violation of human rights in the country is generally perceived to be high [number 2018].
- 4.2. The working environment and protection of the rights of HR defenders is generally perceived as being poor.
- 4.3. Current rating of Kazakhstan by International Human Rights Institutions [Freedom House Rating 2017/2018. Source: Freedom House website: 22/100]
- 4.4. CSO networking (including CSO in rural areas) on HR issues is generally perceived to be weak.
- 4.5. The number of implemented recommendations of international bodies and organizations in the field of human dimension is generally perceived to be inadequate [number 2018].
- 4.6. The level and quality of the dialogue between CSOs and state authorities concerning Kazakhstan's performance of its human dimension obligations is generally perceived to be low.
- 4.7. The role of CSOs in the implementation of recommendations of international bodies and organizations that are stipulated by international human rights agreements ratified by the Republic of Kazakhstan is generally perceived to be weak.

